

H BILL NO. 218

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2 INTRODUCED BY W.A. Menahan
(Primary Sponsor)

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING FISH AND GAME LAWS; CLARIFYING
5 PROHIBITIONS ON THE USE OF ARTIFICIAL LIGHT TO HUNT AND ON THE WASTE OF FUR-BEARING
6 ANIMALS; DEFINING "PELT"; AMENDING SECTIONS 87-1-102, 87-3-101, ⁽¹⁾~~87-3-114, 87-3-115, 87-3-501,~~ AND
7 ⁽²⁾~~87-3-506, AND 87-4-301,~~ MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 87-1-102, MCA, is amended to read:

12 **"87-1-102. Penalties -- violation of state law.** (1) A person who purposely, knowingly, or negligently
13 violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor,
14 except if a felony is expressly provided by law, and shall be fined an amount of not less than \$50 or more than
15 \$1,000, ~~or~~ be imprisoned in the county detention center for not more than 6 months, or both; unless a different
16 punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture
17 of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in this
18 state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court. If the
19 court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the
20 department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender
21 all licenses, as ordered by the court, to the department within 10 days.

22 (2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep,
23 moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall be fined
24 an amount of not less than \$500 or more than \$2,000, ~~or~~ be imprisoned in the county detention center for not
25 more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any
26 current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish,
27 or trap in this state for 30 months from the date of conviction or forfeiture; unless the court imposes a longer
28 forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of privileges.
29 The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.

30 (b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or

1 mountain lion or any part of these animals shall be fined an amount of not less than \$300 or more than \$1,000,
2 ~~or be~~ imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon
3 conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this
4 state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture;
5 unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify
6 the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the
7 department within 10 days.

8 (c) A person convicted of unlawfully attempting to trap or hunt a game animal shall be fined an amount
9 of not less than \$200 or more than \$600, ~~or be~~ imprisoned in the county detention center for not more than 60
10 days, or both.

11 (d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing,
12 transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation of
13 any provision of this title shall be fined an amount of not less than \$100 or more than \$1,000, be imprisoned in
14 the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or
15 forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24
16 months from the date of conviction or forfeiture; unless the court imposes a longer forfeiture period, and any pelts
17 possessed unlawfully must be confiscated. For each conviction or forfeiture, the department shall notify the
18 person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the
19 department within 10 days.

20 (e) A person convicted of hunting, fishing, or trapping while that person's license is forfeited or a privilege
21 is denied shall be imprisoned in the county detention center for not less than 5 days or more than 6 months. In
22 addition, that person may be fined an amount of not less than \$500 or more than \$2,000.

23 (3) If a person is convicted of illegally taking an animal described in 87-1-111 or 87-1-115 through the
24 use of ~~spotlights~~ artificial light, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting
25 in the state for an additional 5 years following the ending date of the original prohibition period. In addition, the
26 person, upon conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense,
27 a department-sponsored hunter education course.

28 (4) A person convicted or who has forfeited bond or bail under this section and whose license privileges
29 are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or
30 permit during the period when license privileges have been forfeited. A person convicted of unlawfully purchasing,

1 acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the period when
2 license privileges have been forfeited shall be fined an amount of not less than \$500 or more than \$2,000, be
3 imprisoned in the county jail for not more than 60 days, or both.

4 (5) A person convicted or who has forfeited bond or bail under this section and who has been ordered
5 to pay restitution under the provisions of 87-1-111 or 87-1-115 may not apply for any special license under Title
6 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date
7 of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of
8 a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special license or enter a drawing
9 for a special license or permit for the same species of game animal that was unlawfully taken for an additional
10 period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully applying
11 for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special license or
12 permit shall be fined an amount of not less than \$500 or more than \$2,000, be imprisoned in the county detention
13 center for not more than 60 days, or both.

14 (6) (a) A person convicted of a second offense of any of the following offenses within 10 years of the first
15 conviction or who is convicted of two or more of the following offenses at different times within a 10-year period
16 is subject to the penalties provided in subsection (6)(b):

- 17 (i) hunting during a closed season;
18 (ii) ~~spotlighting~~ taking an animal or hunting while using artificial light;
19 (iii) hunting without a license;
20 (iv) unlawful taking of more than double the legal bag limit;
21 (v) unlawful possession of more than double the legal bag limit; and
22 (vi) waste of game by abandonment in the field.

23 (b) (i) A person convicted of the offenses in subsection (6)(a) in the time periods specified in subsection
24 (6)(a) shall be fined an amount of not less than \$2,000 or more than \$5,000, ~~or~~ be imprisoned in the county jail
25 for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit
26 all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this
27 state for 60 months from the date of conviction or forfeiture; unless the court imposes a longer forfeiture period.

28 (ii) The department shall notify the offender of the loss of privileges.

29 (iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10
30 days after having received notice from the department that privileges have been revoked.

(7) (a) A person convicted of a third offense of any of the following offenses within 10 years of the first conviction is subject to the penalties provided in subsection (7)(b):

(i) hunting during a closed season;

(ii) ~~spotlighting~~ taking an animal or hunting while using artificial light;

(iii) hunting without a license; and

(iv) unlawful taking of more than double the legal bag limit.

(b) (i) A person convicted of the offenses in subsection (7)(a) in the time period specified in subsection (7)(a) shall be fined an amount of not less than \$5,000 or more than \$10,000, ~~or~~ be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for life.

(ii) The department shall notify the offender of the loss of privileges.

(iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having received notice from the department that privileges have been revoked.

(8) Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to this section to pay the costs of imprisonment under this section.

(9) A mandatory forfeiture of privileges imposed pursuant to this section does not apply to juveniles. However, the court may, at its discretion, order forfeiture of a juvenile's license and privilege to hunt, fish, or trap upon conviction or forfeiture of bond or bail for a violation of this title.

(10) Notwithstanding the provision of subsection (1), the penalties provided by this section are in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.

(11) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit issued under this title, the administrative authority or the department shall notify the person of the suspension and the person shall surrender the license or permit to the department within 10 days.

(12) For the purposes of this section, the terms "knowingly", "negligently", and "purposely" have the same ~~meaning as~~ meanings provided in 45-2-101."

Section 2. Section 87-3-101, MCA, is amended to read:

"87-3-101. General restrictions. Except as provided in 87-2-803(4), it is unlawful for anyone to hunt or attempt to hunt any game animal or game bird:

(1) from any self-propelled or drawn vehicle;

(2) on, from, or across any public highway or the shoulder, berm, or barrow pit right-of-way of any public highway, as defined in 61-1-101, in the state of Montana; or

(3) by the aid or with the use of any set gun, jacklight, spotlight or other artificial light, trap, snare (except as allowed in 87-3-127 and 87-3-128), salt lick, or bait."

③ ~~Section 3. Section 87-3-114, MCA, is amended to read:~~

~~"87-3-114. Labeling of packages. All shippers of fish, game or nongame birds, game animals, fur-bearing animals, the skins pelts of fur-bearing animals or predatory animals, or parts thereof of the fish, birds, or animals are required to label all packages offered for shipment by parcel post, common carrier, or otherwise. The label shall must be securely attached to the address of the package and shall must plainly indicate the names and addresses of the consignor and consignee and the complete contents of the package."~~

~~Section 4. Section 87-3-115, MCA, is amended to read:~~

~~"87-3-115. Violation by carriers. A person or the agent or employee of any common carrier, association, stage, express, railway, or transportation company may not transport or receive for transportation or carriage or sell or offer for sale any of the fish, game or nongame birds, game animals, fur-bearing animals, the skins pelts of fur-bearing animals or predatory animals, or parts thereof of the fish, birds, or animals, except as specifically provided for by in 87-3-114. All fish, game or nongame birds, game animals, fur-bearing animals, pelts of fur-bearing animals or predatory animals, or parts thereof of the fish, birds, or animals that are in the had in possession of the person or agent or that have been shipped or are being transported in violation of any of the provisions of 87-3-114 or this section must be seized, confiscated, and disposed of as provided by law."~~

~~Section 5. Section 87-3-501, MCA, is amended to read:~~

~~"87-3-501. Open and closed season for fur-bearing animals -- exception. (1) It is unlawful and a misdemeanor for a person to trap or hunt or attempt to trap or hunt any fur-bearing animal until the commission provides an open season on any fur-bearing animal. The furs and hides pelts of fur-bearing animals legally taken during the open season may be possessed, bought, and sold at any time except as provided by law.~~

~~(2) When it is shown that muskrats or beaver are doing severe injury upon or are a menace to the structures, canal banks, or other works of an irrigation project or district or stock water pond, any employee or~~

1 ~~resident landowner on the project or district may kill, or trap, or cause to be killed or trapped any muskrat or~~
 2 ~~beaver upon or in menacing proximity to the structures, canal banks, or other works of the project or district or~~
 3 ~~stock water pond during the closed season on muskrats or beaver; after having secured from the director a permit~~
 4 ~~to do so, except that from June 1 to August 31, both dates inclusive, of each year a permit is not required."~~

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6 **Section 6.** Section 87-3-506, MCA, is amended to read:

7 **"87-3-506. Wasting of fur-bearing animals.** (1) A person commits the offense of wasting a fur-bearing
 8 animal if that person purposely or knowingly: who

9 (a) fails to pick up traps or snares at the end of the trapping season so that the pelt of a fur-bearing
 10 animal is wasted; or

11 (b) attends his traps or snares so that fur-bearing animals are wasted; or

12 (c) wastes the pelt of any fur-bearing animal is guilty of a misdemeanor and upon conviction shall be
 13 punished as provided by law.

14 (2) The department of fish, wildlife, and parks shall enforce the provisions of this section.

15 (3) Federal, state, and county predator control programs are exempt from this section."

16 (4)

17 **Section 7.** Section 87-4-301, MCA, is amended to read:

18 **"87-4-301. Fur dealers defined Definitions.** As used in Title 87, chapter 3, and this part, the following
 19 definitions apply:

20 (1) (a) "Fur dealer" means any Any person or persons, firm, company, or corporation engaging in,
 21 carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state
 22 of Montana in the skins or pelts of any animal or animals designated by the laws of Montana as fur-bearing or
 23 predatory animals shall be deemed a fur dealer within the meaning of this part.

24 (2)(b) If such a fur dealer resides in the state or if his or its the dealer's principal place of business is
 25 within the in this state, of Montana, he or it shall be deemed the dealer is considered to be a resident fur dealer.

26 All other fur dealers shall be deemed are nonresident fur dealers.

27 (2) "Pelt" includes the pelt, skin, or fur of any animal designated by the laws of Montana as fur-bearing
 28 or predatory."

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30 **NEW SECTION. Section 8. Effective date.** [This act] is effective on passage and approval.

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